

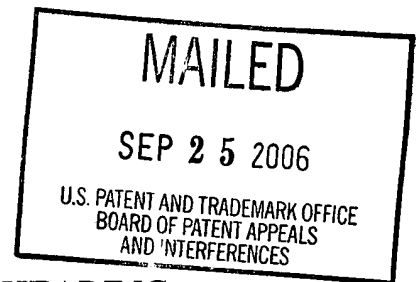
The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AN SHUN HUANG, BELKIS AKPINAR, and CARLOS MACKU

Appeal 2006-3238
Application 09/738,656
Technology Center 1700



ORDER OF NON-COMPLIANCE REGARDING ORAL HEARING

The IFW file record reflects that Appellants filed an Appeal Brief on June 18, 2004. On page 1 of the Appeal Brief, the Appellants included a request for an oral hearing in connection with the appeal with a fee of \$290.00 incurred to their account.

37 CFR § 1.194(b) (currently 37 CFR § 41.47(b)) provides that a request for an oral hearing must be filed in a separate paper.¹

¹37 CFR § 1.194(b) provides in pertinent part:

If [A]ppellant[s] desire[] an oral hearing, [A]ppellant[s] must file a written request for such hearing accompanied by the fee set forth in [37 CFR] § 1.17(g) within two months after the date of the [E]xaminer's [A]nswer.

Since the Appellants' request for oral hearing was not filed in a separate paper as required by 37 CFR § 1.194(b) (currently 37 CFR § 41.47(b)), the Appellants' request for an oral hearing cannot be granted.

If the Appellants still desire an oral hearing, a petition under 37 CFR § 1.183 must be filed *within two weeks* of the mail date of this notice, such a petition must include:

- (1) a request to suspend the separate paper requirement of 37 CFR § 1.194(b) (currently 37 CFR § 41.47(b));
- (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 1.194(b) (currently 37 CFR § 41.47(b)) be suspended or waived; and
- (3) be accompanied by the petition fee set forth in 37 CFR § 1.17(h).

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This *two week time period* for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a). The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).²

By order of the

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



Dale M. Shaw

Deputy Chief Appeals Administrator

(571)272-9797

² If the Appellants decide *not* to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.

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DMS/hh